REMARKS

This amendment is in response to an Office Action dated February 14, 2003. In the Office Action, claims 1-20 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,084,956 issued to Turner et al. (hereinafter referred to as "Turner"). In particular, the Office Action contends that the response message (84 or 100) constitute a status message and control message (79 or 95) constitute an acknowledgement that the status message was received. Applicants respectfully traverse the rejection because the control messages 79 and 95 are not in response to response messages 84 and 100, respectively.

In order to anticipate a claim under §102(e), Turner must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Turner does not teach each and every element of independent claims 1, 12, 14 and 20. For instance, as described on column 7, line 62 through column 8, line 45 of Turner, the message processing function (82) sends a control message (79, 95) to the network access server (NAS). In response to the control message (79, 95), an appropriate response message (84, 100) is returned. Hence, the control message (79, 95) does not describe the limitation of "acknowledging to the access server that the status message was received."

In light of the foregoing, Applicants respectfully request the Examiner to withdraw the §102(e) rejection as applied to independent claims 1, 12, 14 and 20 as well as those claims dependent thereon.

This amendment is being filed with a Continued Prosecution Application. As a result, Applicants respectfully traverse and point out that any future rejection under 35 U.S.C. §103(a) is improper because Turner is not considered a valid prior art reference. In accordance with 35

U.S.C. §103(c), this statute excludes references which may qualify as prior art under 35 USC § 102(e), (f), and (g) from being used as a prior art reference under 35 USC § 103(a). The text of 35 U.S.C. §103(c) recites that "[s]ubject matter developed by another person, which qualifies as prior art under one or more of subsections (e), (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." *See 35 USC §103(c), MPEP 706.02(l).*

The subject matter of Turner and the claimed present invention were, at the time the invention was made, owned by Nortel Networks Corporation or subject to an obligation of assignment to Nortel Networks Corporation. Nortel Networks Corporation has recently changed its name to Nortel Networks Limited. Since the subject application has an effective filing date of February 5, 1999, which is well prior to the issue date of Turner, Turner is not a valid prior art reference under 35 U.S.C. §103(a).

CONCLUSION

In view of the amendments and remarks made above, it is respectfully submitted that all pending claims are in condition for allowance, and such action is respectfully solicited.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on: May 14, 2003.

Corrinn R. Reynolds 5/14/03
Date